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Re: RESPONSE to Office Action Summary Part of paper No. /Mail Date
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Application No. 10/782,650

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Applicant: Robert N. Ross

Examiner: Colleen M. Quinn

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The following is a request for reconsideration for further examination of the application.

The following arguments and proposed changes presented are in regards to the applicant's election of Species B, Fig. 3 and 4 filed March 11, 2007, and rejections to claims presented by Office Action Summary mailed on 4/11/2007.

Summary of Application Specification in regards to (Species B, Fig. 3 and 4)

Species B, Fig. 3 and Fig. 4 under the specification section titled "Brief description of Several Views of the Drawing" is described in the application as;

"FIG. 3 is a perspective view of one embodiment of this invention made from thin metal foil or other thin materials, incorporating structural reinforcement features"

"FIG 4 is a perspective view of one embodiment of this invention made from plastic or other thin walled materials that incorporates structural reinforcement features"

Referring to the "Detailed Description of the Invention" section of the application specification; the fourth, fifth and sixth paragraphs under this heading describe the characteristic differences between the Figs 3 and 4, "Species B" or

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disposable thin walled versions of the invention from other standard holder having thicker walls, not requiring reinforcement.

The fifth paragraph under the "Detailed Description of the Invention" specification heading distinguishes the embodiment of FIG. 3 as; "the form is readily made from aluminum foil of .005/.007-inch thick sheet". Paragraph 6 under the same heading describes the wall thickness of Fig. 4 to be "less than .040 inch thick".

It is further noted in the fourth paragraph that the FIG. 3 elected Species B embodiment of the invention made from thin material thickness incorporates "structural reinforcement features such as crimped edge bends 22, rolled edges 23, indented surface geometries 24 or raised geometries 25, and raised or indented ribs 26 might be formed for increased rigidity".

Within the fifth and sixth paragraphs under the "Detailed Description of the Invention" specification heading; Multiple "Species B" holders can be fabricated or formed together in a single fabrication process.

In response to the first four rejections of claims 1,2,3,5,8,10, 12-15, 17 and 19 under 35 U.S.C. § 112 second paragraph, as being indefinite to particularly point out and distinctly claim the subject matter which the applicant regards as his invention.

Office Rejections:

Regarding claims 1 and 12 the terms "substantially thin" (line 4) and "stable base" (line 6) render the claim indefinite.

Also regarding claims 1 and 12 the phrase "and likewise shaped item" renders the claim(s) Indefinite

Lastly, regarding claims 1 and 12 the word "means" is preceded by the word "receptacle"...

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base plane wherein said contact points are positioned on opposing edge portions of said outer surface, and c) item receptacle [[means]] positioned within said outer surface sized slightly wider than said [[item]] pita pockets and tacos to provide side support and also provides bottom support of said [[item]] pita pockets and tacos orientating the length of said [[item]] pita pockets and tacos generally transverse to said axis, and d) handle means to carry said holder with said pita pockets and tacos installed, and e) an interior volume accessible from an underside open expanse between said opposing edge portions, allowing multiple said holders to be stacked one upon the other, and f) stiffening means formed into said holder.

13. Holder as recited in claim 12 wherein said receptacle [[means]] comprises....

Office Action Response:

Regarding Claim 10, it is unclear what the applicant is referring to when references "multiple devices"It is also unclear what the applicant is referring to when claiming the devices are made from "multiple sheets of material stacked together and formed in a sequential forming process"....Appropriate clarification is needed.

Applicant Clarification:

There are typical manufacturing forming methods that can be used to form a single holder made from a single sheet of material. There are stamping methods and thermal forming methods that begin with a single sheet of material and within a specified sequence of forming operations or "sequential forming process": a single holder can be formed.

Applicant is trying to claim that multiple holders can be made at the same time during a standard sequential forming process that normally forms a single sheet. Due to the use of the thin sheet material, multiple sheets of

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the thin material can be stacked together to generate the thickness of a single standard sheet and the multiple sheets can then be formed into the common shape of the holder. Because the geometry of the holders are stackable, the thin individual holders can then be separated from the group of multiple holders that were formed together.

This forming process is also described in the application specification in the "Detailed Description of the Invention" within the fifth and sixth paragraphs under this heading.

Proposed Correction to Claim 10

10) The holder as recited in claim 1 wherein multiple ~~[[devices]]~~ said holders are formed from multiple sheets of material stacked together and formed in a ~~[[sequential]]~~ forming process.

Office Action Response:

Regarding Claim 19, it is unclear what "environmental resistance" is and how a holder can have environmental resistance to an oven. Appropriate correction is required.

Applicant Clarification:

Environmental resistance was referring to the holder's ability to withstand cooking temperatures and time exposure inside the cooking oven. Many material types and construction methods are not resistant to this harsh environment; they may melt or fall apart.

Proposed Correction to Claim 19

19. The holder as recited in 12 wherein said holder ~~[[has environmental resistance to cooking ovens]]~~ is resistant to heat exposure.

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Office Claim Rejections:

Claims 1, 2, 5 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Guerrero (US 4,004,501)

Applicant Response:

Guerrero teaches a holder for Tacos, the holder he teaches cannot sufficiently hold pita pockets which have a distinctively different shape from tacos. Pita pockets have a rounded bottom but the radius is formed in a plane opposite that of the radius of the bottom of a taco, and the radius of a pita pocket is much larger than the radius of the bottom of a taco. A holder that can accommodate the bottom of a pita pocket will have central relief for the pita pocket's larger bottom radius, such as an aperture or geometry formed in the same shape as the pita pocket bottom. A holder intended for pita pockets can also accommodate the linear bottom of a taco since the taco's straight bottom will contact the two opposing edges across the centrally relieved space for the pita pocket's bottom. Conversely however, a holder having a geometry that matches the linear bottom of a taco cannot sufficiently accommodate the larger radius bottom of the pita pockets, the pita pocket will only be supported by the tangent point of its large bottom radius to the linear bottom of the holder shaped to only support the entire linear bottom of a taco.

Therefore, in regards to the holder taught by Guerrero, pita pockets would not be suitably held in the Guerrero holder that claims; "a linear trough for supporting tacos".... "said linear trough having a rounded bottom to support the normal bending radius of the formed taco shell"....

Guerrero fails to acknowledge the geometry necessary to accommodate both pita pockets and tacos.

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Office Claim Rejections:

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Guerrero

As applied to claims 1, 2, 5 and 10 above. And further in view of Baze (US 5,628,245). Guerrero fails to disclose the receptacle means comprising a single or plurality of apertures.... Baze teaches a taco holder (figure 1) comprising receptacle means (1,2) within outer surface (3) wherein the receptacle means comprise a plurality of apertures (4).

Applicant Response:

The objections to unpatentability over Guerrero are described above. The apertures taught by Baze are for ventilation and uniform heating, they do not provide the functional receptacle geometry of the new invention to support both tacos and pita pockets transverse to the cylinder axis as described above.

Baze fails to acknowledge the geometry necessary to accommodate both pita pockets and tacos, and the apertures fail to provide the function of a receptacle.

Office Claim Rejection:

Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Guerrero as applied to claims 1, 2, 5 and 10 above, and further in view of Giffert et al. (US 6 302,671). Guerrero fails to disclose stiffening means. Giffert discloses an item holder stiffening means (34).

Application response:

The objections to unpatentability over Guerrero are described above. Giffert et al. teaches a holder for roll support of web material having a different geometry from pita pockets and tacos.

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In view of elected species B Fig. 3 and 4, and proposed changes to Claim 1 described above, Giffert fails to teach stiffening means in thin walled sections less than .040 inches thick, Giffert teaches, "preferably a vacuum is drawn on the submerged foraminous mold (see Fig.10 and 11) so that the molded pulp structure110 typically has a thickness of 1/4 to 5/16 of an inch."

Office Action Rejection:

Claims 12-15, 17 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Guerrero and Giffert et al. In light of the rejections above.

Application Response:

The objections to unpatentability over both Guerrero and Giffert are described above. Both Guerrero and Giffert fail to acknowledge support means for both pita pockets and tacos. In view of elected species B Fig. 3 and 4, and proposed changes to Claim 1 described above, Giffert fails to teach stiffening means in thin walled sections less than .040 inches thick, Giffert teaches, "preferably a vacuum is drawn on the submerged foraminous mold (see Fig.10 and 11) so that the molded pulp structure110 typically has a thickness of 1/4 to 5/16 of an inch."

Additional Applicant Clarification:

A note of clarification to the office action's interpretation of the applicant's new holder geometry and orientation of the receptacle portion for the pita pockets, tacos and items within the holder as described in claims 1 and 12.

The claims 1 and 12 state:

"a holder...comprising ;a) an outer surface wherein a portion of said outer surface and related inner surface is a segment of a

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thin walled cylinder having a curvilinear geometry about an axis,".... receptacle [[means]] positioned within said outer surface orientating the length of said [[item]] pita pockets and tacos generally transverse to said axis, ...

Note that the outer surface is a segment of a cylinder having a curvilinear geometry about an axis. A cylinder is defined by Encarta Dictionary, English, North America as; "6. Geometric Surface, GEOMETRY, a surface formed by a straight line moving in a circular pattern around and parallel to a straight line." The straight line described here is the "axis" as described in the claim. The receptacle for the pita pocket, taco or item is ... "positioned within said outer surface generally transverse to said axis"...

The examiners interpretation on page 6 in the Office Action Summary in the fifth paragraph incorrectly correlates the "(bottom of troughs 2)" with the outer curvilinear surface about an axis.

Office Prior Art cited but not relied upon:

Fleisher (US-D370,596)

Knitter (US-4,936,453)

Applicant Response:

Note the claimed geometry of the new holder is unique to supporting both pita pockets and tacos, for forming multiple holders, and for stacking the geometry, Fleisher (US-D370,596) includes a base that covers the open expanse required for stackable geometry and forming multiple holders. Stiffening means are accomplished by the base. Knitter patent does not teach holding pita pockets and tacos as claims 1 and 12 have been amended.

CONCLUSIONS:

The applicant requests re-evaluation of rejected claims as amended or as demonstrated to be patentable over applied references

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Applicant Response:

The claims can be corrected to omit the indefinite terms and to define the unique thin wall thickness of the holder as well as to restrict the holder for particular use with pita pockets and tacos.

Proposed Corrections to Claims 1, 2, 3, 12 and 13

1. A holder for supporting pita pockets[[.]] and tacos [[and any likewise shaped item]] in and upright position comprising: a) an outer surface wherein a portion of said outer surface and related inner surface is a segment of a [[substantially]] thin walled cylinder less than .040 inch thick having a curvilinear geometry about an axis, and b) a [[stable]] base, established by contact points that lie on a common base plane wherein said contact points are positioned on opposing edge portions of said outer surface, and c) item receptacle [[means]] positioned within said outer surface sized slightly wider than said [[item]] pita pockets and tacos to provide side support and also provides bottom support of said [[item]] pita pockets and tacos orientating the length of said [[item]] pita pockets and tacos generally transverse to said axis, and d) handle means to carry said holder with said pita pockets and tacos installed, and e) an interior volume accessible from an underside open expanse between said opposing edge portions, allowing multiple said holders to be stacked one upon the other.

2. Holder as recited in claim 1 wherein said receptacle [[means]] comprises....

3. Holder as recited in claim 1 wherein said receptacle [[means]] comprises....

12. A holder for supporting pita pockets [[.]] and tacos [[and any likewise shaped item]] in and upright position comprising: a) an outer surface wherein a portion of said outer surface and related inner surface is a segment of a [[substantially]] thin walled cylinder less than .040 inch thick having a curvilinear geometry about an axis, and b) a [[stable]] base, established by contact points that lie on a common